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PRISON REFORM *

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IV. Prisonological Problems:—

(1) *Conception of Prisons* may be (*i*) as a place of safe custody—*e.g.*, Undertrials and Captives, (*ii*) as a place of protection, for the detention of anti-social persons in order to protect society, (*iii*) as a place of coercive assistance to creditors, and (*iv*) as a place of punishment.

Evolution of Prisons.—It is unnecessary to trace the evolution of prisons except to note that prison as a place of punishment is of quite recent origin.

General aim of Prison.—As already stated the aim of imprisonment should be wholly reformatory. A prison should be merely a place of detention to effect reform of character rather than a place to inflict repressive punishment.

Exploitation of the prison staff.—H. U. Triston, a retired warder in the English prisons in his book "Men in cages," 1938, has raised an interesting moral question which will also strengthen prison reform. He points out that all the inhuman and abnormal treatment meted out to prisoners is to be carried out by the prison staff. It is they who are compelled to flog the prisoners although it is very repugnant to their nature (p. 191). It is a nerve racking strain for them to sit and watch day and night the condemned prisoner, restless and tossing about in his bed and remorse-stricken (p. 105). It is they who have to enforce the obsolete and inhuman rules of discipline often against their conscience and sense of pity.

* Continued from p. 45, (1941) 2 M.L.J. (Journal section).

They have to do all this on account of their economic necessity. Has the State the moral right to compel the staff to do all these harmful things?

(2) *Solitary confinement and Theory of Silence.*—English and American Prison Reformers of the 18th century developed the theory of solitary confinement on various grounds. The evangelical view of crime was that crime is a sin prompted by the Devil and must be expiated by punishment with the help of religious teaching. But religious teaching fructifies in monastic life or solitary confinement. If the theory is true it must be enforced to free people also and not to the prisoner only. Secular comforts or literature like novels should be banned. The Millbank Penitentiary tried to follow this view strictly.

Howard urged solitary confinement on two grounds, namely, (*a*) to prevent the danger of contamination of indiscriminate association, and (*b*) to make the rogue think and become acquainted with himself.

Some of the English chaplains attached to jails thought that nothing but the Bible should be taught to prisoners, that learning in their hands would be dangerous and would also raise the lower classes above their proper station in society and that every prisoner should commit the Bible to memory and reflect upon his own sins. Hence solitary confinement alone would be conducive to reform in the prisoners.

Protagonists of the theory of deterrent punishment advocated solitary confinement in the view that a deterrent influence must be created by making prison conditions healthy but at the same time disagreeable by means of solitude, denial of comforts, monotonous labour, etc.

Three types of solitary confinement were developed: (a) *The pure solitary system*: According to this during imprisonment the prisoner should see no one, and even his food should be handed over through a trap in the door of his cell. (b) *The separate or penitentiary system* was the second type. In 1790 the Quakers of Pennsylvania in America started a prison called a penitentiary on the theory of absolute isolation. Prisoners were to be kept in absolute isolation in dark (under-ground) single cells without any labour being allowed to them. After an anxious examination of the several prison systems, England adopted this system on the basis of a report by one Crawford and passed a law in 1839 for introducing the separate system. A special prison was built in 1842 at Pentonville and 54 prisons were built on its model within the next 6 years. The relics of this system still persist in English prisons as well as in Indian prisons. (c) *The silent or Associated*

or Auburn System forms the last of these types. It was started at Auburn in the New York State. There were to be three stages in the imprisonment: (1) solitary confinement and no work (2) solitary confinement and work, as a mitigation, and (3) work in association (*e.g.*, road gangs, group meals, games, etc.) but in absolute silence. The prison staff could use the whip mercilessly for breach of silence. In America this system won the day over the penitentiary as it was cheaper in point of buildings and as it brought profits by associated labour. In England, Howard and Bentham advocated this.

In England, the Prison Act of 1877 reduced solitary confinement from 3 to 1 month and the Act of 1898 introduced the associated labour system. The rule regarding observance of strict silence is now modified to the extent that warders may allow prisoners at work to chat to the extent permissible to labourers at a factory. But as the warders are quite ignorant of factory conditions they go on enforcing the old rule.

The evils of the solitary and silent system are too well known. The cell system started by a Pope in 1703 is quite unfit for the 20th century. The silent dark cells have freely bred insanity. Many prisoners attend educational courses or even the hardest labour course in order to be away from the maddening cells. After deprival of liberty it is inhuman to cage the men. Solitary confinement makes man irritable, morose, gloomy and grumbling and produces moral degeneracy. "If you cage men up like animals they acquire the vices of animals" (Triston, p. 239). It is high time that the cell system is replaced by the camp system.

(3) *Classes of Prisons.*—Mysore now posssesses three classes of prisons—Lock-ups, Sub-Jails and Central Jails—based upon the term of the sentence and the size of accomodation. Within each jail all the prisoners of the locality would be housed. But the need of separation has been recognised, and within each jail arrangements have been made as far as possible to keep undertrials, civil prisoners, diseased men, simple imprisonment men and females separate from other groups.

Modern opinion does not favour even this arrangement as the segregation can never be complete except during sleeping hours. For work, exercise, recreation, meals, medical treatment, educational activities etc., the meeting together of all classes of prisoners to some extent at least is inevitable. The treatment according to modern methods fundamentally differs for each class and calls for different types of administrators, experts and staff, different kinds of equipment, different kinds of outlook. The cost of building a dozen wards in hundreds of local jails, may not exceed the cost of

building separate jails for each class for larger units of areas. There will be no economy in the cost of the technical staff but separate jails would mean more of administrative staff. This could be met by non-officialisation. At the present day, prisons are of the following categories:—

(a) *General Types.*—I. Detentional prisons, for (1) captives, (2) internees and detenues, (3) politicals, (4) civil prisoners, (5) security prisoners (6) technical prisoners and (7) undertrials.

II. Prison for juveniles and adolescents.

III. Prison for first offenders.

IV. Prison for the sickly, the aged, cripples, and lepers.

V. Prison for the feeble-minded or mental defectives.

VI. Prison for sexual offenders.

VII. Prison for the condemned.

VIII. Prison for the intermediates.

IX. Prison for habituals and incorrigibles.

X. Penal camps and colonies.

(b) *Division according to*—(*a*) sex, and (*b*) status, based on talent, character, education and social life.

The problem of separation presents infinite difficulties. Undertrials for instance are simply to be detained for safe-custody. Politicals, civil prisoners, security prisoners, captives and technical prisoners are more or less in a similar position. While economic considerations are against separation, scientific considerations are clearly opposed to it. For each of these classes may include within it juveniles, adolescents, females, cripples, habituals, sexuals, etc., who all require to be separately housed in different jails. If all undertrials are kept together habituals could most easily corrupt the first offenders during the undertrial period. Are we then to have a dozen jails for undertrials alone at each place of the Court? Wherever possible the political undertrial may be housed with the political convict, the habitual undertrial with the habitual convict and so on, provided the discipline is not disturbed. Or, can we not combine the educated politicals with the educated among civil prisoners, technical prisoners, security prisoners, sexual offenders, etc? A classification of prisoners on the basis of moral character, social status and education would yield better results for purposes of separation.

(4) *Location of Prisons.—Centralisation versus localisation.* (*a*) *Advantages of centralisation*:—

(i) Large scale economies in establishment, building cost, consumption by prisoners, and economic production of jail labour.

(ii) Better central control; absence of hampering activities of local bodies.

(iii) Possibilities of complete scientific equipment for medical, psychiatrical, sanitary examination and experiments.

(iv) Possibility of developing prison industry on business lines.

(v) Better educational arrangements.

(*b*) *Advantages of localisation.*—(i) Localisation prevents the erection of prisons as castles and fortresses with all the undesirable atmosphere surrounding them and enables the erection of homely cottage buildings which will also be cheaper.

(ii) It enables the enjoyment of country air and surroundings.

(iii) It enables the growth of regional industries in regional prisons.

(iv) A central factory demands the continuous presence of a large number of long-term prisoners. But the majority of prisoners are unskilled, short-term convicts.

(v) Modern business is also tending towards distributive regional localisation.

(vi) All social welfare institutions, schools, hospitals, reformatory jails, psychiatrical institutes, sanitary offices, etc., cannot be concentrated in one place on grounds of economy but must be developed in all regions. There cannot exist a single school or a single hospital or a single jail for the whole country.

(vii) Educational experiments also require variation.

(viii) A central jail cannot eliminate all local jails. At least lock-ups are necessary to detain undertrials near the scenes of crime and Court houses. The cost of transporting all short-term prisoners to and from a single central jail will be prohibitive.

(ix) Centralisation of jails would wholly prevent the poorer classes from visiting prisoners. England is just now adopting the device of periodically transferring prisoners to jails in their localities to enable their relatives to visit them. It is suggested that the cost of such transfer could be better paid to the poorer relatives to travel to a central jail. Both these devices are clumsy substitutes for the erection of regional prisons.

(x) Decentralisation of control to local bodies subject to strict central supervision is politically desirable.

(xi) Non-official effort and organisation are now indispensable to supplement state effort in dealing with criminals. But non-official effort and organisation should not be confined to a city or two but must become rooted in all the regions of the state.

(5) *Accommodation.*—The prison buildings must be homely cottages and there should be nothing abnormal or forbidding about them. The cell system must be abolished. Extensive accommodation must be provided for the inmates leading a camp life. Adequate privacy must be allowed for each prisoner. Storeyed buildings are condemned by many on the ground that they facilitate suicidal falls and involve larger staff. In Dartmoor a wire net has been built across the top of the first floor to break the fall of men or articles thrown and special watch is kept on the stairs.

(6) *Administrative organisation.*—I. *Central management.*—A ministry of social welfare may be created as has been done in Japan by Imperial Ordinance No. 7 of 10th January, 1938, to deal with public health, sanitation, physical education, labour welfare, child welfare, social welfare, women welfare, prevention and cure of crime and so on. A department of criminology under a Director of Criminology dealing with Criminological research, prevention of crime, penal legislation, prisons, after-care probation and so on may also be established.

A standing committee of the legislature for prisons and crimes to study, review and supervise the work of the department may also be appointed.

II. *Administration of each jail.*—A superintendent or a governor will supervise the jail. He is now a Government servant. There is considerable diversity of opinion about the desirability of recruiting superintendents from different services and positions—from military men as in England, from medical men as in India, from the police, from educationists, from industrialists, from the judiciary, from administrators or civilians. Military men are said to be best fitted for handling large masses of brutalised and savage types of men. But if the main aim of imprisonment is reform of character and not penal discipline, military men are unsuited. Criminals are different in temperament from other men and are unfit for military discipline. Military men can achieve nothing but regimentation and dragooning and uniformity and mechanical obedience. Military governors are apt to fill the jails with military men as warders, etc., and cannot superintend the work of teachers, industrial managers or medical men, whose collaboration is needed in modern prisons. Also in India such military men will not be easily available from among Indians. The same objections apply to policemen. Medical men are only specialists in a narrow field trained to study and deal with individual patients and not with masses of men and cannot as a rule possess sufficient administrative ability to preside over such institutions. Triston suggests that in order to convert jails into self-sufficient industrial

camps the appointment of industrialists would be better. But, Socialists are likely to view industrialists as slave drivers. All things considered, the educationists would be the men most suitable from this point of view. It is desirable that the superintendents and jail officers should have made a study of modern psychology, criminology and jurisprudence. To each jail must be attached a band of experts for attending to the psychiatrical, medical, industrial and educational aspects of the new treatment.

III. *Convict officers.*—The system of employing convict officers must be encouraged and extended. The minimum efficiency of a jail requires that it should have at least 30 per cent. of its staff from its own convicts. In well conducted jails it may be raised up to 80 per cent. In penal communes the convicts alone would rule.

IV. *Non-official control.*—In place of the existing Board of Visitors there should be a Board of Management attached to each jail consisting of a non-official majority and including *ex-efficio,* the Jail Superintendent as its Secretary and the President of the District Board of the District. The entire management of the jail should be vested in this Board subject to the authority of the Government and not less than 25 per cent. of its members may be ladies.

(7) *Classification of Prisoners.*—Classification is necessary for purposes of separation and allocation of prisoners into different prisons or wards and this question has been already examined.

(8) *Sanitation and Medical Comforts.*—Privacy and protection from rain and sun should be provided for in latrines. Wherever possible flush-out latrines should be installed. Windows and ventilators in jails must be increased. All the rooms must be brightly lighted. During epidemics the rooms, furniture and clothes and bedding should all be disinfected frequently. People suffering from infectious diseases should be segregated. Systematic physical education must be compulsorily provided for all prisoners. An Indian gymnasium should be opened in each jail. Swedish exercises, drill, Yogasanams, Surya namaskar and other suitable exercises must be arranged. First aid must be compulsorily taught to all.

Before the jail authorities resort to forcible feeding of a hunger-striker they must as a condition precedent intimate his friends or relatives if available or to any other public worker available immediately and allow them to intervene and persuade him to desist from it. Medical treatment by way of prevention or cure of illness should take note of the mental condition of the prisoner.

(9) *General comforts and conveniences.*—According to the old view about prisons everything connected with it—accommodation, dress, food, comforts and movement should all be penal in character. According to the new view all these things should be normal, adequate, pleasant and satisfactory. Another old prejudice against making jail life normal and pleasant is that it would put a premium on crime by providing a greater standard of comfort for criminals than working class men could procure outside jails by honest labour. This prejudice involves a series of fallacies. Crime like disease is a social phenomenon which has to be treated by the State on public considerations and not on grounds of the condition or capacity of the individual involved in the process of treatment. Can the State hospitals treat the working class patients with rags, dirty water, insufficient food and insanitary rooms simply because they are accustomed all their lives only to such things and can never get better things? Surely hospital treatment has not corrupted the poorer classes and tempted them to flock to hospitals. On this argument even school life cannot be made pleasanter for the poorer classes than their home life. Again, the task of running the jails is entrusted to the State and it has to carry it out in the most efficient and scientific manner. Simply because members of the lower classes cook their food wastefully and unhygienically and are irregular in their habits should the State also cook the food in jails in the same unscientific manner and avoid regularity of hours for food, work or sleep? Further, it is because the unfortunates were unable to acquire efficiency, regularity, cleanliness, hygienic purity, healthy food, reasonable comforts and healthy amusements that they came to grief. Again, if a certain amount of discomfort has to be present in jail life as an element of educative discipline there are scientific and select ways in which it may be caused. Notwithstanding the most painful penal discipline imposed in jails crime has not been on the wane. The experience of the last one century proves that crime has decreased in proportion to the removal of the discomforts of prisons. Abolition of dark cells has diminished prison insanity and suicide. The new treatment aims at converting the prisoners into good and efficient citizens. If it is recognised that the bulk of the criminals are unfortunate victims of some mental or environmental defect, their lot must evoke our sympathy and pity and none should grudge them a few comforts during the period of their forcible confinement and reformatory treatment.

All sense of abnormality must be eliminated. Hence jail dress must be the normal dress and nothing else. Those who can afford must be allowed to have their clothing and bedding as they like. Only extravagance, luxury, and display may be banned. The

poorer prisoners may be provided with decent and warm clothes and bedding.

Abnormality should disappear as regards food and drink. The system of prescribing individual scales should be abolished. There should be neither luxury nor meagreness in food supply. If one uniform standard of comfort cannot be had three standards of comforts for the A. B. C., classes should be arranged. Those who can afford must be made to pay. A sufficient number of vessels, at least a jug and two vessels, must be provided to each for drinking purposes. Abundant supply of drinking water must be allowed; butter milk must be provided for all classes. Milk, sugar, coffee and ghee must be allowed to A and B classes, and to C class at the option of the authorities there should be no penal diet as a punishment for any prison offence. Subject to medical opinion, fasting must be permitted to all during their respective fasting days. In special cases the hour of diet may be changed for select prisoners to meet religious susceptibilities or medical needs. In England charitable societies and individuals are allowed to send special food to prisoners on the occasion of festivals like the Passover.

The banning of news is cruel. Among other results it would incapacitate the prisoner after release. Those who can afford may be allowed to get their own papers and books. Every jail must maintain a reading room. Newspapers may also be circulated to the quarters of the prisoners by arrangement. It is also desirable to have a library. A system of circulating books must be arranged and prisoners must be encouraged to read books. Excepting papers and books which are banned to free citizens under any law or rule all other books and papers may be allowed to prisoners.

Politicals as well as detentional prisoners may be allowed visits and letters twice a week and the rest once a week. Bentham's scheme of allowing the public to inspect jails by charging a fee may be usefully adopted and tried; parties of students, boy scouts, volunteers, etc., may be allowed to pay visits. In England a holiday trip is provided for lifers. A batch is taken from Maidstone to Dartmoor for six weeks during summer and made to work on the moor. This improves their health, breaks down monotony, and banishes low spirits. Similar methods may be adopted here also. Deprival of letter writing and visits should not be made a punishment for prison offences as it would be really punishing the friends and relatives rather than the prisoner. As all prisoners cannot be located quite near to their homes the poorer classes cannot afford to visit the distant jails. Recently a practice has grown up in England of transferring the long-term prisoners to local jails for some periods to facilitate such visits. Mr. Triston suggests

that instead of this the Government may pay the fare of the relatives in deserving cases. But, temporary transfers are costlier and disturb the prisoner's work.

Organised indoor and outdoor games and sports must be arranged. Sports teams may be allowed to compete with outside teams. Boy scout troops may be organised among juveniles. Dramatic companies, cinemas and circus plays from outside may be allowed to hold performances occasionally in jails. Prison recreation rooms may be provided for indoor games; pursuit of hobbies, or reading, debating societies, music parties, etc, may be organised; gramaphones and radio may be provided.

(10) *Prison education.*—Literacy, first aid, personal hygiene, ethics, civics as well as a vocational course must be taught compulsorily to all. Other subjects such as languages, music, painting, literature, elementary science, philosophy or sociology may be taught as optionals. A system of honorary teachers from outside may be encouraged.

(11) *Prison labour.—I. Theory of compulsory labour.*—The Amercian separate and silent systems held that labour amounts to mental relief and acts as a comfort and diminishes the penal effects of solitary confinement. This view is now untenable. There is no reason to discriminate between detentional prisoners and others in regard to prison labour; for, the imposition of labour has no longer punishment as its sole object.

II. Aims of Prison Labour.—*(A)* One of the aims of prison labour is to serve as a form of physical exercise and to keep off idleness and monotony. Excepting the fanatics wedded to the extreme form of solitary confinement as punishment, none can oppose this. But even to-day deprival of work prevails as a form of punishment for prison offences. This must be given up..

(B) A second aim of prison labour is that it should operate as a deterrent. Imprisonment with hard labour and penal servitude were created in 1776 in England as substitutes for transportation. Penal servitude consists of three stages—detention in cell for 18 months, labour in public works prisons, release on parole. The Report of the Departmental Committee on persistent offenders 1932 has recommended the abolition of the distinction between penal servitude convicts and others. It is these prisoners that have built the Chatham Docks, the Portland Harbour, etc. Hard labour called "rigorous" in the I. P. C. is nowhere defined. The Report of the Commission of 1864 suggested that no labour is hard which 'does not visibly quicken the breath and open the pores'. Working the crank, working the tread-wheel, picking up of oakum, sorting of black and white oats or peas, these represented the principal forms of hard

labour. The crank became obsolete and the tread-wheel was abolished in 1902. Hard labour aimed at producing monotony and fatigue but no profit. The oats or peas were sorted and then mixed again for re-sorting. The labour was to be purely penal and deterrent. The Report of the House of Lords Committee on Prisons in 1863 described the aim of prison life as "hard labour, hard fare and a hard bed." This penal view of prison labour is best expressed in r. 978 of the United Provinces Jail Manual—"Labour in a jail should be considered primarily as a means of punishment and not of employment only; neither should the question of its being highly remunerative have much weight, the object of paramount importance being that prison work should be irksome, and laborious, and a cause of dread to evil-doers." This theory of prison labour is now abandoned everywhere. Art. 9 of the Russian Code sums up the position admirably—"The measures of social defence do not have for their object the infliction of physical suffering or the lowering of human dignity, nor are they meant to avenge or to punish." (J. Nehru, Soviet Russia, 1928, p. 101).

(*C*) Yet another object of prison labour is said to be that it is meant to compensate, in some degree the State which is the jailor. If imprisonment with hard labour stressed the penal theory of prison work, penal servitude involving employment in public works stressed its economic theory. In early days many English prisons were owned by or farmed to private profiteers who levied fees, sold goods and liquor, and exacted work for their profit. The office of Jailor was sold until a statute of 1730 prohibited it. In recent times in U.S.A. prison labour is sometimes farmed out to outside contractors. This has been condemned as legalised slavery. At present the economic theory has received great prominence and jails are carrying on industries on an extensive scale. The mat industry at Wakefield jail in England produces £ 40,000 per year. Nevertheless jail industries are very poor and economically unsound. The making of mail bags for post offices by the hand, the making and repairing of clothes by hand or the breaking up of stones into road metal, spinning and weaving, etc.,—these are mere waste of labour and time-killing jobs. Machinery could do these in no time and far more cheaply. A prison worker cannot earn one fourth of what a similar free worker earns for the same period. Notwithstanding such poor show, the industrialists are attacking jail industries as representing a competition with private industry and Trade Unionists are proclaiming a boycott of jail goods as being the products of sweated slave labour. The causes for this poor production are quite obvious. The majority of prisoners are unskilled and unfit for productive work. In their very nature they are a fluctuating population. Except in a big central jail a modern

type of industrial factory with machine labour cannot be started. Such a factory plant as well as technical overhead staff will cost much. Jailors and warders can only see to the occupation of time in prison labour but not to the quality of the work. Amidst the numerous occupations of jail life the time devoted for economic labour is too short. The majority of workers being unskilled and slow they would resent any skilled worker speeding up his work; if speeding up is forced upon them a large number would feign illness or insanity.

If jails are to be made self-sufficient the old fashioned methods of work and unskilled handicrafts should be discarded and work by machinery and uptodate industrial methods must be introduced. Such industrial organisation reforms the men, replaces the cell system by the camp system, and makes work and not discipline the main aim of prisons. The work must be run on pure business lines under expert supervision.

(*D*) Lastly, it is said that the object of prison labour is to train the prisoner to some trade which will be useful to him after release. It is not possible to teach any vocation to short-term prisoners. This has led reformatory theorists to object to short terms and demand a minimum being fixed. But moral welfare is not bound up with the efficient learning of a vocation. Where is the guarantee of employment for all those who learn it? Even for long-term prisoners, only handicrafts can be taught. They will be useless in this mechanical age. The jail-trained worker can never compare himself with the products of outside industrial and technological schools or with factory workers. Prejudice prevents employment for prisoners even if they receive perfect training. This would force recidivism and the recidivists will have no zest to learn anything more. They often use what they learn in jails in furtherance of crime.

The only alternative is to enforce work of an economic character which will in the end prove the most reformatory.

(12) *Prison Discipline.*—(*a*) *General.*—The aim of discipline in prisons should be educative and reformatory. The self-respect and sense of honour of the man must be evoked and an urge for self-control and self-improvement created in him. He must be made to look to the future and no attempts must be made to dwell upon his past deficiencies.

Prison Offences.—Prisoners violate jail rules for practically the same reasons for which free citizens violate penal law. Their mental defects and the cramping environment of the jail will be responsible for most of these contraventions.

To some extent prisoners feel like revolutionary criminals, that offence is their weapon of war against their enemy. Prisoners cooped up in cells, put through a course of unpleasant occupation, and without any sort of assistance, advice, co-operation or equipment may not be able to secure redress of their grievances.

Prestige offences for not saluting or standing up or showing respect to the officers should not be punishable.

Punishment.—The prevailing forms of prison punishment are flogging, solitary confinement, penal diet, and deprival of comforts and privileges. Modern opinion is opposed to any of these punishments. Triston wants the abolition of prison punishment altogether; imprisonment is itself a great punishment; why then subject the man to an iron discipline and inflict further punishment? That course would be vindictive. The only form of punishment that may be adopted in prisons should be a moderate deprival of rewards and remissions.

The Prison Act of 1898 in England took away the power of corporal punishment from the governors and vested it in the Visiting Committee. The Board of Management now proposed for all jails must be made responsible for all prison punishment.

A public reprimand in the presence of all prisoners will very often be a very good form of punishment. In the case of grave offences with violence the prisoners may be assembled and consulted to determine the punishment. Development of some sort of self-government in jails would go a great way in solving the problem of jail discipline.

Rewards and remissions.—It is unnecessary to enumerate the methods of rewards now in vogue in different countries. All the best and useful methods may be adopted. The Collective Marks System experimented by Alexander Maconochie in Bermingham in 1849 may be adopted everywhere. The prisoners are divided into groups of eight. The marks of each group are pooled together and rewards are determined on the total marks of the group and not on individual marks. If any one errs, his group suffers and his companions would act as guards against his delinquency. The marks system must also be modified in accordance with age, health, and status of the prisoner. Gratuities by way of doles are not desirable. As already suggested a share of the earnings in jails must be distributed to the prisoners.

SUMMARY OF ENGLISH CASES.

MILLIGAN *v.* MILLIGAN, (1941) 2 All.E.R. 62 (P.D.A.).

Husband and wife—Restitution of conjugal rights—Jurisdiction—"Matrimonial home when co-habitation ceased"—Whether physical home necessary.

The phrase "matrimonial home" extends in relation to a Court's jurisdiction, to the husband's residence within such jurisdiction in such circumstances that any husband similarly circumstanced and not estranged from his wife would set up his house within such jurisdiction at the time when co-habitation ceased. A wife's action in that place for restitution of conjugal rights is within jurisdiction.

In re KAY AND LOVELL, TRUSTEE *v.* MOORE AND QUAIFE, (1941) 2 All.E.R. 67 (Ch.D.).

Bankruptcy—Power to reopen transactions.

The Court has no jurisdiction to make an order which would in effect be an order reopening the accounts which were already dealt with in the Master's certificate and the question of remuneration which the Master allowed to a receiver in an earlier partnership suit between the bankrupts.

PROCTOR *v.* PEEBLES, LTD., (1941) 2 All.E.R. 80 (C.A.).

Practice—Agreed medical report—When to be allowed in trial—Desirability of having medical witnesses available for cross-examination.

In a case where prognosis is an important matter it is most desirable that a doctor or doctors should be present in Court to answer any questions that the Judge may wish to ask. The Master or Registrar should consider whether the case is suitable for hearing with a medical report agreed between the parties.

KING *v.* KING, (1941) 2 All.E.R. 103 (P.D.A.).

Divorce—Desertion—Marriage contract providing that matrimonial home was to be at wife's place of business—Effect on husband's right to dictate where the matrimonial home is to be—Refusal by wife to move to house selected by husband—If desertion—Agreement—If opposed to public policy.

Where before marriage the husband had agreed to allow the wife to continue her own business and to make her business premises the matrimonial home, the husband cannot subsequently insist on his right to select a different matrimonial home and if the wife refuses to move to the home selected by him to charge her with desertion. There is nothing opposed to public policy in such an agreement and the husband by making it an excuse to stay away from the wife is guilty of desertion.

CONSTANTINE S.S. LINE *v.* IMPERIAL SMELTING CORPORATION, (1941) 2 All.E.R. 165 (H.L.).

Contract—Charterparty—Frustration caused by accident to ship—Burden of proof as to absence of negligence.

The appellants chartered their vessel the *Kingswood* to the respondents to carry a cargo from Port Pirie in South Australia to a British Port. A few days after her arrival off Port Pirie but before she became an "arrived ship," a violent and unexplained explosion took place on board. The damage caused to the steamer by the explosion was such as to frustrate the commercial object of the adventure. In an action by the charterers for damages, the shipowners claimed that they were absolved from all further liability.

Held, that the burden was on the party denying frustration to prove negligence or default of the party setting up the plea. Frustration will excuse non-performance unless it is proved to be self-induced.

Decision of Court of Appeal, (1940) 3 All.E.R. 211, reversed and that of Atkinson, J., (1940) 2 All.E.R. 46, restored.

FOAMINAL LTD., *v.* BRITISH PLASTICS, LTD., (1941) 2 All.E.R. 393 (K.B.D.).

Contract—Damages—Failure to deliver goods—Loss of co-operation of editors who had written advertisement puffs in their periodicals—Damages—Right to.

The plaintiffs who were suppliers of cosmetics to the public contemplated putting on the market a new summer cream in small attractive containers suitable for ladies to carry about in their handbags. The plaintiff's managing director secured the co-operation of certain beauty editresses to write " puffs " of the product and also include in their columns particulars of a half price offer which said in substance " post me your name and address together with $7\frac{1}{2}$ *d.* in stamps, it will be sent to you by return." In response some 3,000 orders were received.

The plaintiffs had entered into a contract with defendants for the supply of 10,000 of these containers which had to be specially made, and were not available in the market. In an action for damages for breach of the contract to supply the containers, claiming *inter alia* damages for the loss of the future co-operation of the editresses,

Held, that the plaintiffs were not entitled to damages for loss of co-operation of the editresses in the absence of proof of essential facts to support such claim as one for loss of reputation.

The mere fact that pecuniary loss is brought about by the loss of reputation caused by a breach of contract is not sufficient to preclude the plaintiff from recovering in respect of that pecuniary loss.

To recover damages under this head the plaintiff must prove with sufficient certainty (1) the occurrence of the pecuniary loss and (2) that such loss was within the contemplation of the defaulting party at the time when the contract was made.

KING FEATURES *v.* KLEEMAN, LTD., (1941) 2 All.E.R. 403.

Copyright Act (1911), *S.* 22—*Scope.*

In construing S. 22 (1) of the Copyright Act, 1911, it is convenient to disregard the double negative and treat the section as though it read "The Copyright Act shall not apply to the designs of works used or intended to be used as models or patterns to be multiplied by any industrial process where the designs of such works are capable of being registered under the Designs Act." "Design" may be embodied in a sketch illustrative of the model itself, *e.g.*, in a sketch of a brooch or doll or in a brooch or doll itself. Unregistered designs are not subject of design copyright. But original sketches or cartoons not used or intended to be used as models or patterns to be multiplied by any industrial process, retain their copyright and their owner can prevent infringement of such right.

Re SEAD, LTD., (1941) 2 All.E.R. 466 (Ch.D.).

Companies Act (1929), *S.* 294—*Application for avoidance of dissolution —Limitation.*

The period of two years, for making an order declaring a dissolution void, is to be decided by taking the period between the date of the dissolution of the company and the date when the application under S. 294 of the Companies Act, 1929 is made. The order itself on such application need not be made within two years. (S. 294 provides *inter alia* that the Court can declare the dissolution of a company void at any time within two years of the date of the dissolution.)

CUMPER *v.* POTHECARY, (1941) 2 All.E.R. 516 (C.A.).

Practice—Payment into Court—Withdrawal of whole or part by person paying in—When permissible.

Where a defendant has paid money into Court he is not entitled to resile from that step as of right. He must show that there are good reasons, such as for instance the discovery of further evidence which puts a wholly different complexion on the case or a change in the legal outlook brought about by a new judicial decision, etc., for his resiling. The Court should consider whether there is a sufficient change of circumstances since the money was paid in, to

make it just that the defendant should have an opportunity of withdrawing or reducing his payment.

WINCHESTER COURT, LTD. *v.* HOLMES, (1941) 2 All.E.R. 542 (K.B.D.).

Lease—Provision for six months' notice to determine tenancy—Notice terminating lease " at the end of the last quarter "—Sufficiency.

A lease commencing from January 1, 1937 provided that the tenant had the option of determining the tenancy at the end of the third or fifth year by giving the landlord or his agent at least six months' previous notice in writing of his intention to do so. The lessee assigned his rights to a major who was called for military service. By a letter dated June 30, 1939, sent to the agents of the landlord who received it the same day, the assignee of the lessee wrote as follows : " I hereby give you formal notice of termination at the end of the last quarter of this year."

Held, that there was no ambiguity in the notice and termination at the end of the current year was meant.

R. *v.* SECRETARY OF STATE FOR INDIA, (1941) 2 All.E.R. 546 (K.B.D.).

Extradition—Application for—Expert's evidence as to Indian Law—How far conclusive.

Practice—Counsel giving evidence—Propriety—Fugitive Offenders Act, 1881.

In an application for the issue of a writ of *habeas corpus* against committal to prison of a fugitive offender from India before being sent to India without order of the Magistrate for extradition under the Fugitive Offenders Act,

Held, (i) All that is necessary while asking for extradition is to show that the person against whom the order is sought is one accused of having committed an offence in India and that he has left India, when he becomes, in the words of the Act, "a fugitive from India."

(ii) All that is required in this case is a warrant issued in India by a person having lawful authority to issue it duly endorsed and authenticated in the United Kingdom for an offence to which the Fugitive Offenders Act applies.

(iii) No objection to a warrant on the ground of duplication can be effective although the prosecution may be called upon to elect because the committal for one of those offences is not rendered void by the inclusion in the warrant of another charge upon which no committal was asked for or has been ordered.

(iv) Depositions taken in India in the trial of the co-conspirators, but in the absence of the fugitive are not rendered inadmissible by reason of the fact that they were not taken "for the purposes of the Fugitive Offenders Act."

(v) The fact that only part of the depositions was used in the Magistrate's Court did not make them inadmissible either.

(vi) Where an affidavit of an expert on Indian Law was nothing more in truth than a forensic argument, the Court would be justified in interpreting for itself the relevant Indian statutes.

(vii) A barrister should not act as both counsel and witness in the same case.

(viii) The apprehended risks of war to which the fugitive will be exposed while travelling to India is no ground for interfering with the course of law.

In re KNAPTON, (1941) 2 All.E.R. 573 (Ch.D.).

Wills—Bequest of "one house to each of my nephews and nieces and one to N. H., one to F. K. and one to my sister and one to my brother"—Allotment of the houses.

A will provided: "I give and bequeath my estate as follows: . . . . . . one house to each of my nephews and nieces and one to Nellie Hird, one to Florence Knapton, one to my sister, one to my brother. . . . "

Held, that the devises are valid and the choice is to be given to the several devisees in the order in which they are named including the nephews and nieces. If they cannot agree the choice must be determined by lot.

In re OWERS, (1941) 2 All.E.R. 589 (Ch.D.).

Wills—Executors—Personal liability in respect of leaseholds—Right to indemnity from estate.

Executors are at liberty to retain out of the estate a fund by way of indemnity against their personal liability in respect of leaseholds in the possession of the testator at his death vesting in them.

GAUNT *v.* INLAND REVENUE COMMISSIONERS, (1941) 2 All.E.R. 662 (C.A.).

Income-tax Finance Act, 1938, S. 38—"Wife" if includes "widow"—Liability of income under settlement to tax.

The word "wife" should extend to the case of "widow" and the income under a settlement where the "widow" of the settlor

might benefit after the settlor's death is liable to income-tax and sur-tax under S. 38 of Finance Act, 1938.

(1941) 2 All.E.R. 82, reversed on this point.

CUSHING *v.* WALKER AND SONS, (1941) 2 All.E.R. 693 (K.B.D.).

Tort—Nuisance—Slate on roof rendered insecure by enemy action—No proof that owner knew of unsafe condition—Plaintiff injured by falling of slate—Defendant not liable for continuing the nuisance.

Plaintiff was injured by the falling of a slate from the roof of defendant's premises. It was found that the insecurity of this slate which caused the defendant's premises to become a nuisance arose from enemy action. In an action for damages, *held*, on the evidence that it could not be said that with the exercise of reasonable care and skill the defendants ought to have known that their roof had been rendered unsafe and therefore there was no wrongful act in continuing the nuisance.

HICHENS & CO. *v.* JACKSON & SONS, (1941) 2 All.E.R. 704 (C.A.).

Stock exchange—Vendor repudiating contract—Duty to broker—Company refusing to register transfer on account of caveat *from original owner—Broker if bound to replace shares—Broker if entitled to indemnity.*

A broker for sale of shares even if acting as principal, has performed all his duties when he hands over to agents acting for the transferee, a duly executed transfer together with the certificate. He is under no duty to procure the registration of the transfer and if the buyer wishes to protect himself he must see that registration is guaranteed. Accordingly where the company refuses to register a transfer by reason of a *caveat* from the transferor, the broker is under no duty to buy other shares and replace the stock and he cannot claim indemnity from the vendor of the shares. (1941) 1 All.E.R. 562, reversed.

CAMKIN *v.* BISHOP, (1941) 2 All.E.R. 713 (C.A.).

Tort—Negligence—School boys allowed to volunteer for work on farms on holidays—Injury while so working—Headmaster if liable for damages for not providing proper supervision.

Some boys including the infant plaintiff from a school volunteered for farm service on a half holiday at a farm near the school. They were not accompanied by any master to supervise or control them. They were to receive 6 *d.* per hour for their work, the wages being paid to the school for them. After starting work, when the farmer was absent the boys began playing the fool by throwing potatoes at each other and continued their ragging for 30 or 40 minutes. One boy uttered something opprobrious to another boy, which angered

the latter, who replied by throwing a lump of earth at his insulter, who ducked his head and escaped the missile which unfortunately hit the infant plaintiff gravely injuring one eye which had to be removed. In an action by the father of the plaintiff for damages against the headmaster of the school,

Held, that the duty of the headmaster being that of an ordinary careful parent, there was no breach of duty in allowing the boys to work on the farm. No headmaster is obliged to arrange for constant and perpetual watching out of school hours.

SCOTT *v.* SEYMOUR, (1941) 2 All.E.R. 717 (C.A.).

Workmen's Compensation Act (1925), *S.* 1 (i)—*Domestic servant taking master's tea to fields—Returning back to farm on horse back—Injury by horse bolting—If accident " arising out of employment."*

A girl of 15 to 16 years of age was employed as a domestic servant by a farmer. One day she was asked by the farmer's wife to take a can of tea to the farmer, who was working two miles away in a field. She took the tea to the farmer and waited until he had consumed it, when it was her duty to take the empty can back to the farm. One of the horses in the field was going back to the farm. She asked the man in charge of the horse if she might ride the horse and he let her do so as she was accustomed to riding. The horse was startled and the girl fell off and injured herself.

Held, that as it was not an obviously reckless or dangerous way of returning to the farm and the accident arose out of her employment within the terms of the Act she was entitled to recover compensation.

JOTTINGS AND CUTTINGS.

Books of Legal Reminiscence.—We have it on high authority that of the making of books there is no end, a statement the generality of which may with equal force be applied to those works which are devoted to legal reminiscence. Books of this type are plentiful enough but they are certainly not all of equal merit ; indeed many of them ought strictly to be required to show cause why they were ever written. On the other hand, there is a select number of works belonging to this class which are not only admirably written but are likewise packed with stories told with rare skill and art which make them particularly inviting, and among this select class must certainly be numbered that charming book which came from A.J. Ashton,K.C., whose early death in 1925 not only made a conspicuous gap in the ranks of leading silks but likewise in those of skilled reconteurs. To his recollections published under the title " As I went on my way " attention was called in these columns many years ago, but much

was left unsaid which was almost of equal value and interest some of which may now be added on a rereading of the book.—*L. T., 1941, p. 23.*

An Awkward Ambiguity.—Lord Russell of Killowen, the father of the present peer bearing that title, that is, the great Lord Chief Justice, on one occasion, while sitting in the Court of Criminal Appeal, recalled a curious incident which happened to him while on circuit. The question was being discussed as to a jury being told of any previous convictions recorded against a prisoner, and the Lord Chief, in afterwards referring to the matter, said " an innocent remark of mine once gave this information to the jury. The prisoner was defending himself with much ability but he spoke so low as to be frequently inaudible, and having once said something I did not hear, I said, ' What was your last sentence?' Immediately came the reply, ' Six months, my Lord !' "—*L. T., 1941, p. 72.*

Lord Eldon and John Clerk.—Looking back on the venerable figure of Lord Eldon we instinctively think of him as the embodiment of equity and devoid of anything resembling humour. It would, however, be a mistake so to regard him. In turning over an old scrap book with miscellaneous contents the present writer came across a story about Eldon and John Clerk of the Scots bar, who later became a judge of the Court of Session with the title Lord Eldin, which may well bear repetition. It seems that Clerk retained many of the old-fashioned pronunciations to which he had been accustomed in the north, and on one occasion, appearing in the House of Lords during the tenure of the Chancellorship of Lord Eldon, he was pronouncing the word " enough " as " enow," and having done so in various parts of his argument, the Chancellor at last interposed with the remark : " Mr. Clerk, in England we sound the ' ough ' as ' uff '—enuff not enow." " Verra weel," continued the self-possessed pleader, " of this we have had enuff ; and I come, my Lord, to the sub-division of the land in dispute. It was apportioned into what in England would be called pluffland—a pluffland being as much land as a pluffman can pluff in one day." The Chancellor could not resist the ready repartee, and burst into a loud laugh, and said, " Pray proceed Mr. Clerk, I know enow of Scotch to understand your argument." Besides the humour of the story the anecdote again incidentally illustrates the occasional anomalies of English pronunciation.—*L. T., 1941, p. 73.*

Juvenile Crime.—Public attention has recently been drawn to the increase in juvenile crime that has taken place since the outbreak of the war. Mr. Watson G. Boyce, the probation officer at the

Southwark Juvenile Court, told the Howard League for Penal Reform at a luncheon on 6th March that juvenile delinquency had been accentuated by the conditions arising out of the war. Among the group from eight to fourteen years of age, he said, the loss of the sense of security, with sudden death almost a commonplace, fathers and relatives being away, perhaps never to return, and mothers hard worked and depressed, had brought about the increase. He alleged immorality in shelters and said that the rise in the wages of adolescents from £ 3 to £ 6 a week gave them far too much money to spend and drunkenness was increasing. A short article appeared in *The Times* of 8th March, in which it was stated that inquiries among welfare workers had shown that though Mr. Boyce's picture was overdrawn, the situation was nevertheless serious. Various reasons, such as lack of discipline owing to absence of parents, the closing of schools for long periods, the closing of clubs and the use of playing fields for other purposes, evacuation, the time spent in shelters and the inability of juvenile courts to impose suitable deterrent punishment, were all mentioned as causes of the increase in juvenile crime. The Chairman of the East London Children's Court, Mr. B. Henriques, said that clambering over air-raid ruins and taking useless articles led to irritating charges of looting, and certain serious offences, such as housebreaking, were planned in the shelters. Much of this was due to a spirit of adventure that needed guidance into right channels. The evil effect of sudden wealth on undeveloped minds is undeniable. At Lambeth Juvenile Court on 6th March a girl of fifteen earning 37s. a week and a boy of sixteen earning £ 3 a week were charged with larceny. On the same day, at West London, Sir Gervais Rentoul had occasion to tell four boys, one of whom he sent to Borstal, and two to an industrial school, that the high wages paid them were having a bad effect. A recent investigation has shown that the proportion of young persons arrested singly is about 40 per cent., the remainder being arrested in gangs which number from two to eleven persons, the overwhelming majority of which are two, three or four in number. Obviously the cause of the increase, though apparently multiple, is in reality unitary, and can be traced to the unnatural and morally unhealthy conditions under which many children and young persons are now living in towns. The remedies must be not merely the negative one of evacuation, but the positive harnessing of the activity of young people to useful work where schooling is necessarily restricted, and, without attacking any decent standards of life, compulsory restriction of spending money. *S.J., 1941, p. 146.*

Disenchantment.—At Birmingham Assizes recently Mr. Justice Cassels remarked that the fact that married people do not get on well

together is not quite a ground for divorce at the moment. He added : " There have to be grounds, otherwise we shall have people coming here and saying, 'She is not so good-looking as I thought.'" It might very well have been otherwise if certain eighteenth century legislators had had their way and succeeded in getting through Parliament a Bill in the following terms : "That all women of whatever age, rank or profession, whether maid or widow, who shall after this Act impose upon and seduce into matrimony any of His Majesty's subjects by means of scents, paints, cosmetics, artificial teeth, false hair, bolstered hips, high-heeled shoes, or iron stays, shall incur the penalties against witchcraft and the marriage be declared null and void." Few marriages could stand a test like that. On the whole, judges seem to take a view of matrimony so sober as to be definitely discouraging. Only last year in the Divorce Court, when a counsel asked his client the routine question, "Was your marriage happy at the start?" Mr. Justice Bucknill intervened to say, "We cannot assume that marriage is a state to which the word 'happy' can properly be applied. It is enough if a spouse can say that it was even normal."—*S.J.*, 1941, *p.* 151.

In the Dark.—Just after the jury had brought in a verdict of 'Guilty' in a sensational case at the Old Bailey recently, the lights mysteriously went out, and in the darkness there were shouts of "Black justice !" from the dock. (It turned out later that the incident arose merely from the conscientiousness of an electrician following a black-out routine.) The thing reminds one of the verses addressed to Mr. Justice Day on an occasion when he proposed to sit long into the night to try some prisoners :

"Try men by night ? My lord, forbear !
Think what the wicked world will say.
Methinks I hear the wretches swear
That Justice is not done by Day."

Once at Stafford the court lights failed just as the jury had returned to deliver their verdict in a murder trial. For several minutes the room was in complete darkness, till a few lighted candles were brought. By their flicker you could see the outline of the face of Mr. Justice Pickford and of the prisoner in the dock. Gravely the foreman of the jury announced the verdict of "Guilty," and the judge assuming the black cap, pronounced sentence of death, which the prisoner received without visible emotion. Sometime ago while the late Mr. Martin O'Connor was arguing a case in the Court of Mr. Justice Acton, he said : "Every electrical device in the world is likely to go wrong." At that very moment the lights in the court fused and went out, leaving the place in darkness. "Well," said

the judge's voice, "that certainly supports your argument. I am sure no one can say you have done it on purpose."—*S.J., 1941, p. 151.*

The Week's Personality.—The family tree of the Pollocks has borne varied and good fruit in the legal world, and Sir Edward Pollock, ninth son of the great Chief Baron, was no disappointment. It is true that he first embarked on a medical career, but absence on a prolonged tour in the United States lost him his practice and accordingly he returned to the family tradition and was called to the Bar in 1872. Misfortune, however, pursued him and an operation to his vocal cords spoilt his chances as an advocate. In 1897 he succeeded Mr. Justice Ridley as Official Referee. In his amusing book "Life, Law and Letters," Mr. E.S.P. Haynes printed a witty verse, in carol style, sent him by a friend of the family :

"There came three Pollocks on Christmas Day
To see what they could find.
The first to come was deaf and dumb
And the others were totally blind.
And one of them sits in the Court of Appeal
And one in the K.B.D.
And the oldest one, who is deaf and dumb,
Is Official Referee."

Mr. Haynes adds that though the operation had reduced Sir Edward's voice to a whisper, it was the most penetrating sound known to him and could be distinctly heard through the whole compartment of a tube train in motion. He performed his laborious duties with ability and conscientiousness till he retired in 1927 at the age of seventy-seven.—*S.J., 1941, p. 189.*

The Liar.—As a classic judicial description of a liar certain words of Mr Justice Hallett at Manchester Assizes recently would be hard to beat. He described "the hummings and hawings, the long pauses, hesitation and general atmosphere of hand-to-mouth but somewhat boggling inventiveness," and added "in thirty years in the legal profession I have seen many witnesses in the box who have conveyed to me a clear impression that they were lying. I do not think I have ever seen a witness who did so as thoroughly as Pearlberg." For more than other places the courts require varied formulæ for expressing disbelief. There was, for instance, the subtle method of Mr. Justice Hamilton, who once said to a jury in a City case : "On the occasion in question, if the defendant is to be believed, he exhibited the dignity of a grandee of Spain and the resignation of a Christian martyr. The defendant, you will remember, is a company promoter." The Irish have a more whimsical way sometimes, as

when a prevaricating witness broke down under the cross-examination of the great Curran to protest to the judge: "My lord, I cannot answer Mr. Curran; he puts me in such a doldrum." "What *is* a doldrum, Mr. Curran?" asked the judge. "My lord," was the reply, "it is a common complaint with persons like the witness. It is confusion of the head arising from corruption of the heart." More blunt and pointed was Judge Adams at Limerick, when he said to a plaintiff: "Look here, sir, tell me no more unnecessary lies. Such lies as your attorney advises you are necessary for the presentation of your fraudulent case I will listen to, though I shall decide against you, whatever you swear, but if you tell me another unnecessary lie, I'll put you in the dock."—*S.J. 1941, p. 189.*

BOOK REVIEW.

"PRINCIPLES AND FORMS OF PLEADINGS," by S. C. Ghosh, 1941, royal octavo, 1410 pages, price Rs. 16. The Eastern Law House Ltd., Law Publishers, 15, College Square, Calcutta.

We heartily welcome this publication on this important subject. The Civil Justice Committee in their Report in 1924 deplored the lack of books on Pleadings in India. The Committee said that there was a great need for books in India like Bullen and Leake, and Odgers on Pleadings in England. Indian Pleadings have been repeatedly criticised by high authority as being often loose, prolific and defective. The Committee observed that Indian lawyers have to be trained in the art of drafting pleadings and suitable Indian books are required for that purpose. Since then, there have been some well-known publications, but it cannot be said that these books have achieved the purpose desired by the Civil Justice Committee and that Indian Pleadings have attained perfection such as is claimed for English Pleadings. Hence a comprehensive and thorough treatment of the subject as has been attempted in the publication under review is highly welcome.

Mr. Ghosh's book deals in Part I, with the history of Pleadings. In this part he deals not merely with Pleadings during the time of the British Courts but has also given a brief account of the history of Pleadings in the ancient Hindu and Mohammadan periods of administration. In Part II, he deals with general principles on Civil Procedure, Joinder of parties, Causes of action and Jurisdiction of Courts and the Rules of the Code of Civil Procedure on these matters, etc. Then he deals in Part II with the Rules of Pleadings. In Part III he sets out Forms of Petitions and in Part IV Forms of Pleadings. In Part II questions of Procedure and Pleading are dealt with exhaustively and with a full citation of case-law. The

Parts in which the Forms are given are equally full and contain also notes of cases relating to the subjects on which the Forms are given. A great deal of labour has been spent upon this book and we commend it to the legal profession. The book is well got-up as is only to be expected of a publication by a firm of well-known Publishers like the Eastern Law House, Ltd., Calcutta. There is a Foreword by the Hon'ble Mr. Justice Lort Williams of the Calcutta High Court.

CENTURY EDITION OF ALL INDIA CRIMINAL DIGEST (1840-1941), Vol. I, by A. N. Khanna, Advocate, High Court, Lahore, published by Atma Ram and Sons, Lahore.

We welcome with pleasure the first volume of the "Century Edition of All India Criminal Digest, 1840-1941," by Mr. A. N. Khanna. Mr. Khanna is well-known to the legal world by his commentary on the Court-Fees Act and the Partnership Act. His present work covers a different but a wider field. The volume under review serves the double purpose of a digest and a subject index. In view of the vast accumulation of case-law, the author has adopted the somewhat original method of dividing the case-law into two sections, one dealing in comparatively fuller detail with the case-law from 1901-1941 and the other dealing in shorter compass with the cases before 1901. This method has the advantage of placing first before the reader the recent case-law on the subject, and avoiding the necessity of merely reiterating—almost in identical language as not unoften happens—propositions well-established. The matter is everywhere divided into headings and sub-headings which make for greater clarity and accuracy.

We are sure that the book will be welcomed widely.

INDIAN COMPANY RULES AND FORMS, by Lakshmi Narain Mehra, B.A., LL.B., Pleader, Chandni Chowk, Delhi, 1941. Price As. 8/-.

The above publication contains 47 new company forms for use from 1-4-1941 as also some other forms like application for shares, company's receipt for application money, etc. Under each form, short notes have been added; these will be found helpful in practice. The booklet contains the Indian Companies Rules, 1941, as amended up-to-date. The book, we are glad to see, is priced very low so as to be within easy reach of all interested.

DEBT RELIEF IN THE MADRAS PRESIDENCY, by Messrs. S. Subramanya Sastri, B.A., B.L., and V. Suryanarayana, B.A., B.L. Price Rs. 2-8-0.

We have great pleasure in welcoming this latest contribution on the debt relief law in the Presidency. The authors have success-

fully produced in a compendious book of under 280 pages a full and critical commentary on the Madras Agriculturists' Relief Act, the Madras Debt Conciliation Act, The Madras Debtors' Protection Act and The Usurious Loans Act. We note that the authors have adapted into their commentary the *ipsissima verba* of the learned judges themselves but have yet by a process of judicious selection managed to keep the book well within bounds as regards size. The commentary under each section is preceded by a synopsis which would be helpful to the busy practitioner. An attempt has been made to resolve conflict of decisions and where the matter is *res integra* the authors have given us the benefit of their opinion on the point in issue.

Considering the large output of literature recently on the Madras Act IV of 1938, a book like the one under review giving in concise form a commentary at once explanatory and critical is a desideratum. We are glad to see that the same care has been bestowed on the other Acts also by the learned authors. The several appendices to the book contain the statement of objects and reasons and the general rules and forms under the respective Acts.

Parallel references have been given to every case and even short notes of cases have been adverted to. These features are sure to add to the utility of the book. The printing and get-up are all that can be desired.

An Introduction to the Law of Limitation and Prescription in British India, by K. J. Khambatta, 4th edition, 1941, published by N. M. Tripathi & Co., Bombay. Price Rs. 4-4-0.

To have run through four editions in the short space of a decade is an achievement and speaks much for the popularity and utility of the work; and Mr. Khambatta is to be congratulated on the fourth edition of his masterly little book on the Law of Limitation and Prescription, which has just been published by Messrs. N. M. Tripathi & Co.

The book is intended primarily for students of law and to that end the author has very lucidly and in very simple language expounded the general principles of the subject. This method of treatment is analytical from start to finish and there is a wholly original and quite interesting regrouping of the sections of the Limitation Act—an Act which has been blest in various quarters as the "worst drafted piece of legislation in India." Alongside there is a brief critical commentary on the several sections. The first chapter deals with a number of topics not dealt with in the Act, but which are very intimately related to and which in fact form the foundation of the law of limitation, such as the legal theory underlying limitation ,

prescription, the distinction between estoppel, acquiescence and laches as bearing on the law of limitation, etc.

The rules set out in chapter II as regards the time limits under the various articles are sure to be of great help to the student. The *termini a quo* have also been classified with reference to generalised rules an appreciation of which will tend to fix them easily in the memory.

Chapter III deals on some important parts of the subject like acknowledgment, fraud, adverse possession etc. But the book, while excellently serving the purpose of a student's manual, is sure to be of great use to practitioners also. We are pleased to find that the author has crammed into the footnotes a good lot of case-law treating on the subject and has made a critical commentary on the Act, giving the reader the benefit of his individual views on particular decisions. The recent pronouncement of the Judicial Committee in Rama Shah's case has been made the subject of a critical note. Other important pronouncements have been noticed in appropriate places. Altogether it is a book which is sure to be useful to students and practitioners alike.